balance due (a conditional sale of personalty being deemed an equitable lien in New York). Defendant set up, as a defense, a breach of warranty for this amount. *Held,* that this defense could not be maintained as title was not in defendant. *Hauss* v. *Savarese,* 149 N. Y. Supp. 938.

This seems to be the first case in which this exact point has been raised. It has been held that a conditional vendee cannot *bring* an action for breach of warranty until title vests in him. BENJ., SALES (Bennett's Ed.) 855; *English* v. *Hanford,* 27 N. Y. Supp. 672; *Frye* v. *Millegan,* 10 Ont. 509; *Bunday* v. *Columbus Machine Co.,* 143 Mich. 10; but it has never before been decided that he cannot set off a breach of warranty in an action for the purchase price. There is, however, some dicta upon this point. *Frye* v. *Millegan,* supra; *New Hamberg Mfg. Co.* v. *Webb,* 23 Ont. L. Rep. 44; WILLISTON, SALES, § 607.

SALES—WAIVER OF ANTICIPATORY BREACH.—Plaintiff sold a certain quantity of rubber to defendant, deliverable in installments. Before all the installments became due, defendant attempted to import into the contract certain new terms, and on their rejection by the plaintiff, refused further to perform. Plaintiff nevertheless made subsequent tenders of performance. After time for final performance plaintiff sued upon the anticipatory breach. Defendant claimed that such anticipatory breach was waived by the subsequent tenders. *Held,* that these tenders were not such a waiver. *Rubber Trading Co.* v. *Manhattan Rubber Mfg. Co.,* (1914), 150 N. Y. Supp. 17.

The tenders made by the plaintiff after breach by the defendant, were probably not sufficient to support an action for final breach. The court held merely that *such* tenders were not a waiver of the anticipatory breach. This is in accord with *Poel* v. *Brunswick etc. Co.,* 144 N. Y. Supp. 725; and *Canda* v. *Wick,* 100 N. Y. 127, holding that tender of performance after anticipatory breach does not destroy the effect of such breach, but is in conflict with. *Becker* v. *Seggie,* 124 N. Y. Supp. 116.

SURETYSHIP—ABSENCE OF PRINCIPAL'S SIGNATURE.—In an action of debt against the sureties on a town treasurer's bond, the defense was made that no liability arose on the bond because it did not bear the signature of the principal. *Held,* that since the principal was under a legal obligation to perform his official duties, absence of his signature on the bond was no defense. *Inhabitants of Boothbay Harbor* v. *Marson,* (Me. 1914), 92 Atl. 623.

This decision follows the reasoning applied in *Deering* v. *Moore,* (1894), 86 Me. 181, and is in accord with the conclusion adopted by numerous jurisdictions to the effect that although a surety is prima facie not bound unless the principal's signature appear on the contract, still it is not necessary that the bond be executed by the principal where the latter is bound to perform through an independent obligation. *Bean* v. *Parker,* 17 Mass. 591; *Ohio* v. *Bowman,* 10 Ohio 445; *Cockrill* v. *Davie,* 14 Mont. 131; *Trustees of Schools* v. *Sheik,* 119 Ill. 579; *U. S. Fid. Co.* v. *Haggart,* 163 Fed. 801; *Bunn* v. *Jetmore,* 70 Mo. 228; *Gen. Ry Signal Co.* v. *Tit. Guar. Co.,* 203 N. Y. 407; *American Surety Co.* v. *Pangburn,* (Ind.), 105 N. E. 769, 13 MICH. L. REV.

245, 247-248. This view cannot be reconciled with the directly contradictory one sanctioned by numerous other courts which hold that since it must be assumed that a surety signs only on condition that the principal join in the execution, the surety is conclusively free from liability if the principal's signature is lacking,—at least unless it expressly appears that the surety has waived such signature. *Martin* v. *Hornsby,* 55 Minn. 187; *School District* v. *Lapping,* 100 Minn. 139; *Sacramento* v. *Dunlap,* 14 Cal. 421; *Weir* v. *Mead,* 101 Cal. 125; *Novak* v. *Pitlick,* 120 Ia. 286; *Johnson* v. *Kimball,* 39 Mich. 187; *Hall* v. *Parker,* 39 Mich. 287; *People* v. *Carrol,* 15 Mich. 233; *People* v. *Hartley,* 21 Cal. 585.

TORTS—LIABILITY FOR INDUCING BREACH OF CONTRACT.—Defendant was purchaser of plaintiff's mortgaged property at a foreclosure sale. Plaintiff sold his equity of redemption to one Severson, under a contract that the latter should redeem the property, take care of the existing liens, and hold or convey half of the said property to plaintiff. Defendant, by wrongful statements to Severson concerning the property and plaintiff's title thereto, maliciously induced Severson to break his contract with plaintiff, whereby the latter lost all of his interest in the property. *Held,* that a petition setting forth the above facts could not be sustained as stating a cause of action for slander of title, but was maintainable on the theory that defendant wrongfully induced Severson to violate his contract with the plaintiff, which was a valid property right. *Kock* v. *Burgess,* (Iowa, 1914), 149 N. W., 858.

The decision in this case is based upon a distinction between liability for slander of title, and liability for a wrongful interference with contractual obligations. It is well settled that where a valid contract for the sale of property exists, slanderous statements concerning the title to such property, which prevent a sale under the contract, are not actionable, the right of action being against the other contracting party, for the breach. *Burkett* v. *Griffith,* 90 Cal. 532; *Paull* v. *Halferty,* 63 Pa. St. 46; *Brentman* v. *Note,* 3 N. Y. Supp. 420. But if the effect of the slander of title is not to create a breach of contract but to deter another from purchasing the property or entering into a contract of sale, an action for slander of title will lie. *Brentman* v. *Note* and *Paull* v. *Halferty,* supra; *Stevenson* v. *Love,* 106 Fed. 466. In the principal case, no action would lie for slander of title, for not only did a contract of sale of the equity of redemption exist, but it had been executed. The damage, if there was any, consisted in the failure to perform further contractual obligations, in the shape of duties concerning the protection of said equity of redemption for the benefit of the plaintiff. Wrongful statements inducing the breach of these obligations were held actionable on the theory that the right to performance of an existing contract is a property right, and that knowingly and maliciously to induce breach of such contract is as distinct a wrong as to injure and destroy the property of another. On this last point the cases are in conflict, but the weight of authority is probably with the principal case. Accord: *Kelly* v. *Kelly,* 10 La. Ann. 622; *Morgan* v. *Andrews,* 107 Mich. 33; *Jones* v. *Stanly,* 76 N. C. 355; *West Va.*